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ORIGINAL

MEMORANDUM

TO: Docket Control

2007 OCT 11 A 9:23

Arizona Corporation Commission

FROM: Ernest G. Johnson
Director
Utilities DivisionAZ CORP COMMISSION
DOCKET CONTROL

DOCKETED

OCT 11 2007

DATE: October 11, 2007

DOCKETED BY

mn

RE: IN THE MATTER OF THE APPLICATION OF VANCO DIRECT USA, LLC. FOR APPROVAL OF A CERTIFICATE OF NECESSITY AND CONVENIENCE TO PROVIDE RESOLD LONG DISTANCE TELECOMMUNICATIONS SERVICES AND RESOLD LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES (DOCKET NOS. T-20404A-05-0599 AND T-20404A-07-0261)

Attached is the Staff Report for the above referenced application. The Applicant is applying for approval to provide the following services:

- Resold Long Distance Services
- Resold Private Lines Services

Staff is recommending approval of the application.

EGJ:AFF:tdp

Originator: Armando Fimbres

SERVICE LIST FOR: VANCO DIRECT USA, LLC
DOCKET NOS. T-20404A-05-0599 et al

Ms. Monica Borne Haab
Nowalsky, Bronston & Gothard, APLLC
3500 North Causeway Boulevard
Suite 1442
Metairie, Louisiana 70005

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Christopher C. Kempley
Chief Counsel, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief Administrative Law Judge, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

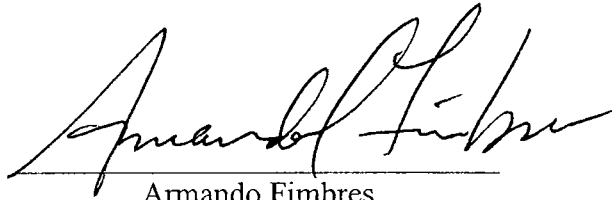
VANCO DIRECT USA, LLC.
DOCKET NOS. T-20404A-05-0599 AND
T-20404A-07-0261

IN THE MATTER OF THE APPLICATION OF VANCO DIRECT USA, LLC. FOR
APPROVAL OF A CERTIFICATE OF NECESSITY AND CONVENIENCE TO PROVIDE
RESOLD LONG DISTANCE TELECOMMUNICATIONS SERVICES AND RESOLD
LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES.

OCTOBER 11, 2007

STAFF ACKNOWLEDGMENT

The Staff Report for Vanco Direct USA, LLC., Docket Nos. T-20404A-05-0599 and T-20404A-07-0261, was the responsibility of the Staff member listed below. Armando Fimbres was responsible for the review and analysis of the application for a Certificate of Convenience and Necessity to provide resold long distance telecommunications services and resold local exchange telecommunications services, and petition for a determination that its proposed services should be classified as competitive.

A handwritten signature in black ink, appearing to read "Armando Fimbres", is written over a horizontal line.

Armando Fimbres
Public Utility Analyst V

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1. INTRODUCTION

On August 22, 2005, Vanco Direct USA, LLC ("Vanco Direct") or "Applicant") filed an application for a Certificate of Convenience and Necessity ("CC&N") to provide resold long distance and resold local exchange telecommunications services within the State of Arizona. The Applicant petitioned the Arizona Corporation Commission ("Commission") for a determination that its proposed services should be classified as competitive.

On August 29, 2005, Staff issued a letter of deficiency and Data Request to Vanco Direct. On December 21 and 22, 2005, Staff and Ms. Becky Heggelund, on behalf of Vanco Direct, discussed, via telephone communication, the status of the Data Request issued by Staff on August 29, 2005. Ms. Heggelund explained that the data request was not received, perhaps due to the weather conditions and related problems associated with Hurricane Katrina since Ms. Heggelund's office is located in Metairie, Louisiana. Staff agreed Ms. Heggelund should take additional time, as needed, to complete the response.

Between February 2006 and July 2006, Staff and Ms. Heggelund's office exchanged emails several times to determine the status of the Data Request response and the applicant's interest in proceeding with its CC&N application. The applicant remained interested in completing its CC&N application and indicated it was continuing to gather the needed information.

By Procedural Order issued on August 30, 2006, Staff was required to provide an update by September 29, 2006. On September 27, 2006, Ms. Heggelund explained via email that the delay in responding to Staff's Data Request and subsequent communications was due to a continuing shortage of staff and resources still linked to Hurricane Katrina. Ms. Heggelund indicated that Vanco Direct remained interested in completing its CC&N application and would be submitting its responses. On September 29, 2006, Staff filed its recommendation that this docket remain open.

On October 3, 2006, Vanco Direct filed its responses to Staff's First Data Request and on February 16, 2007, Staff issued a Second Set of Data Requests to reaffirm informal email requests initiated in October 2006.

On April 27, 2007, Vanco Direct filed an application to inform the Commission of a transaction whereby Lloyds TSB Bank PLC will make available to Vanco Direct and certain of its affiliates, the sum of 100 Million Pounds Sterling which will be secured by the guarantee of Vanco Direct, a security interest in Vanco Direct's assets and pledge of Vanco Direct's membership interests in Docket No. T-20404A-07- 0261.

On June 5, 2007, by Procedural Order, Docket Nos. T-20404A-05-0599 and T-20404A-07- 0261 were consolidated.

On August 13, 2007, Vanco Direct filed a revised application to provide resold long distance and resold private line telecommunications services within the State of Arizona.

Staffs review of application T-20404A-07-0261 will be filed under separate cover, concurrent with this staff report.

Staff's review of this application addresses the overall fitness of the Applicant to receive a CC&N. Staff's analysis also considers whether the Applicant's services should be classified as competitive and if the Applicant's initial rates are just and reasonable.

2. TECHNICAL CAPABILITY TO PROVIDE THE REQUESTED SERVICES

Vanco Direct, a subsidiary of Vanco Group Limited, a British telecommunications company, was incorporated on February 3, 2005.

Staff research indicates that the Applicant's parent is a large international telecommunications company, founded in 1988, that operates and offers services in 230 countries and territories in the world. Additionally, Vanco manages networks for clients in 152 countries. Attachment A outlines the history of the Applicant's Parent.

The Applicant been approved for and provides interexchange telecommunications services in 31 states – Alabama, California, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, Washington, Wyoming.

Based on the information submitted by the Applicant and Staff's research, Staff believes that Vanco Direct possesses the technical capabilities to provide the services it is requesting the authority to provide.

3. FINANCIAL CAPABILITY TO PROVIDE THE REQUESTED SERVICES

Vanco Direct has stated it will rely on the financial capability of its affiliate Vanco UK Limited to fund its operations within the State of Arizona. Vanco UK Limited is 100% owned by the parent company, Vanco Group Limited.

The Applicant provided Staff with the Parent Company's most recent Annual Report which includes financial information for the years ending January 31, 2006 and 2007. Vanco Group Limited's most recent balance sheet list total assets exceeding £205 Million Sterling and net income exceeding £10 Million Sterling.

Unaudited Vanco Direct financials for full-year 2006 were also provided. The statements list total assets of \$46,601,060 and net income of (\$1,437,779).

The Applicant states in its proposed Tariff No. 1, Section 2.7.3, page 13, that "The company will not collect deposits or advanced payments from Arizona customers." Since the Applicant does not propose to collect deposits or advance payments and is not seeking authority to provide local exchange services, Staff does not believe a performance bond or an irrevocable sight draft Letter of Credit is warranted.

4. ESTABLISHING RATES AND CHARGES

The Applicant would initially be providing service in areas where an incumbent local exchange carrier ("ILEC"), along with various competitive local exchange carriers ("CLECs") and interexchange carriers are providing telephone service. Therefore, the Applicant would have to compete with those providers in order to obtain subscribers to its services. The Applicant would be a new entrant and would face competition from both an incumbent provider and other competitive providers in offering service to its potential customers. Therefore, the Applicant would generally not be able to exert market power. Thus, the competitive process should result in rates that are just and reasonable.

Both an actual rate and a maximum rate may be listed for each competitive service offered. The rate charged for a service may not be less than the Company's total service long-run incremental cost of providing the service pursuant to A.A.C. R14-2-1109.

The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the company indicating that its fair value rate base is zero. Accordingly, the company's fair value rate base is too small to be useful in a fair value analysis.

Staff has reviewed these rates and believes they are comparable to the rates charged by competitive local carriers, local incumbent carriers and major long distance carriers operating in the State of Arizona. Therefore, while Staff considered the fair value rate base information submitted by the company, the fair value rate base information provided should not be given substantial weight in this analysis.

5. REVIEW OF COMPLAINT INFORMATION

According to the Applicant, Vanco Direct has neither had an application for service denied, nor revoked in any state. Consumer Services reports no complaint history within Arizona, and Staff's research did not disclose any complaints in other States.

The Applicant indicated that none of its officers, directors or partners have been involved in any civil or criminal investigations, or any formal or informal complaints. The Applicant also indicated that none of its officers, directors or partners have been convicted of any criminal acts in the past ten (10) years. See attachments B, C, D and E for additional information.

6. COMPETITIVE SERVICES ANALYSIS

The Applicant has petitioned the Commission for a determination that the services it is seeking to provide should be classified as competitive.

6.1 COMPETITIVE SERVICES ANALYSIS FOR INTEREXCHANGE SERVICES

6.1.1 A description of the general economic conditions that exist, which makes the relevant market for the service one that, is competitive.

The interexchange market that the Applicant seeks to enter is one in which numerous facilities-based and resold interexchange carriers have been authorized to provide service throughout the State. The Applicant will be a new entrant in this market and, as such, will have to compete with those companies in order to obtain customers.

6.1.2 The number of alternative providers of the service.

There are a large number of facilities-based and resold interexchange carriers providing both interLATA and intraLATA interexchange service throughout the State. In addition, various ILECs provide intraLATA interexchange service in many areas of the State.

6.1.3 The estimated market share held by each alternative provider of the service.

The large facilities-based interexchange carriers (AT&T, Sprint, MCI, etc.) hold a majority of the interLATA interexchange market, and the ILECs provide a large portion of the intraLATA interexchange market. Numerous other interexchange carriers have a smaller part of the market and one in which new entrants do not have a long history with any customers.

6.1.4 The names and addresses of any alternative providers of the service that are also affiliates of the telecommunications Applicant, as defined in A.A.C. R14-2-801.

None.

6.1.5 The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms and conditions.

Both facilities-based and resold interexchange carriers have the ability to offer the same services that the Applicant has requested in their respective service territories. Similarly many of the ILECs offer similar intraLATA toll services.

6.1.6 Other indicators of market power, which may include growth and shifts in market share, ease of entry and exit, and any affiliation between and among alternative providers of the service(s).

The interexchange service market is:

- a. One with numerous competitors and limited barriers to entry.
- b. One in which established interexchange carriers have had an existing relationship with their customers that the new entrants will have to overcome if they want to compete in the market.
- c. One in which the Applicant will not have the capability to adversely affect prices or restrict output to the detriment of telephone service subscribers.

6.2 COMPETITIVE SERVICES ANALYSIS FOR PRIVATE LINE SERVICES

6.2.1 Private Line Services

Private line service is a direct circuit or channel specifically dedicated to the use of an end user organization for the purpose of directly connecting two or more sites in a multi-site enterprise. Private line service provides a means by which customers may transmit and receive messages and data among various customer locations over facilities operated and provided by the Applicant. The Applicant is therefore engaged in providing telecommunications service for hire to the public, which fits the definition of a common carrier and a public service corporation. Staff believes the Commission has jurisdiction over the services to be provided by the Applicant. Staff also believes a hearing is necessary.

6.2.2 Description of Requested Services

Vanco Direct proposes to provide private line service. Private line service is a direct circuit or channel specifically dedicated to the use of an end user organization for the purpose of directly connecting two or more sites in a multi-site enterprise.

6.2.3 A description of the general economic conditions that make the relevant market for the service one that is competitive.

Interexchange carriers ("IXCs") hold a substantial share of the private line service market. Also, a number of ILECs and CLECs have been authorized to provide private line service. The Applicant will be entering the market as an alternative provider of private line and, as such, the Applicant will have to compete with several existing companies in order to obtain customers.

6.2.4 The number of alternative providers of the service.

IXCs are the primary providers of private line service in the State. Several ILECs and CLECs also provide private line service.

6.2.5 The estimated market share held by each alternative provider of the service.

IXCs hold a substantial share of the private line market. ILECs and CLECs likely have a smaller share of the private line market.

6.2.6 The names and addresses of any alternative providers of the service that are also affiliates of the telecommunications Applicant, as defined in A.A.C. R14-2-801.

None

6.2.7 The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms and conditions.

IXCs have the ability to offer the same services that the Applicant has requested in their respective service territories. Similarly, many of the ILECs and CLECs offer substantially similar services.

7. RECOMMENDATIONS

The following sections contain the Staff recommendations on the application for a CC&N and the Applicant's petition for a Commission determination that its proposed services should be classified as competitive.

7.1 RECOMMENDATIONS ON THE APPLICATION FOR A CC&N

Staff recommends that Applicant's application for a CC&N to provide intrastate telecommunications services, as listed in this Report, be granted. In addition, Staff further recommends:

1. That the Applicant complies with all Commission Rules, Orders and other requirements relevant to the provision of intrastate telecommunications services;
2. That the Applicant abides by the quality of service standards that were approved by the Commission for Qwest in Docket No. T-01051B-93-0183;
3. That the Applicant be prohibited from barring access to alternative local exchange service providers who wish to serve areas where the Applicant is the only provider of local exchange service facilities;

4. That the Applicant be required to notify the Commission immediately upon changes to the Applicant's name, address or telephone number;
5. That the Applicant cooperate with Commission investigations including, but not limited to customer complaints;
6. The rates proposed by this filing are for competitive services. In general, rates for competitive services are not set according to rate of return regulation. Staff obtained information from the company and has determined that its fair value rate base is zero. Staff has reviewed the rates to be charged by the Applicant and believes they are just and reasonable as they are comparable to other competitive local carriers, local incumbent carriers and major long distance companies offering service in Arizona and comparable to the rates the Applicant charges in other jurisdictions. The rate to be ultimately charged by the company will be heavily influenced by the market. Therefore, while Staff considered the fair value rate base information submitted by the company, the fair value information provided was not given substantial weight in this analysis;
7. That the Applicant offer Caller ID with the capability to toggle between blocking and unblocking the transmission of the telephone number at no charge;
8. That the Applicant offer Last Call Return service that will not return calls to telephone numbers that have the privacy indicator activated;
9. Staff further recommends that the Commission authorize the Applicant to discount its rates and service charges to the marginal cost of providing the services;

Staff further recommends that the Applicant be ordered to comply with the following. If it does not do so, the Applicant's CC&N shall become null and void after due process.

1. The Applicant shall docket conforming tariffs for each service within its CC&N within 365 days from the date of an Order in this matter or 30 days prior to providing service, whichever comes first. The tariffs submitted shall coincide with the application and state that the Applicant does not collect advances, deposits and/or prepayments from its customers.
2. The Applicant shall:
 - a. If at some time in the future the Applicant does decide to collect advances, deposits and/or prepayments from its customers, Staff recommends that the Applicant be required to file an application with the Commission and that the Applicant be required to establish an appropriate performance bond or the irrevocable sight draft Letter of Credit for the corresponding services. Such request must reference the decision in this docket and must explain the Applicant's plans to collect advances, deposits and/or prepayments from its customers.

7.2 RECOMMENDATION ON THE APPLICANT'S PETITION TO HAVE ITS
PROPOSED SERVICES CLASSIFIED AS COMPETITIVE

Staff believes that the Applicant's proposed services should be classified as competitive. There are alternatives to the Applicant's services. The Applicant will have to convince customers to purchase its services, and the Applicant has no ability to adversely affect the local exchange or interexchange service markets. Therefore, the Applicant currently has no market power in the local exchange or interexchange service markets where alternative providers of telecommunications services exist. Staff therefore recommends that the Applicant's proposed services be classified as competitive.

History of Vanco

- 1988 - Vanco exists as an unsuccessful data services company. It is purchased by the current CEO, Allen Timpany, for £1 with the intention of taking advantage of the newly de-regulated telecommunications market.
- 1989 - Vanco no longer operates within bureau services and, instead, begins operation in the provisioning of managed data networks. Their first client is Leamington Spa Building Society in London.
- 1990 - Significant new clients help a turnover of £2 million for Vanco to move out of debt and plan a major re-investment for future growth.
- 1991/1992 - Vanco carries out the migration of its backbone from X25 and TDM to a single operating system that results in a great cost savings for the company and its clients.
- 1993 - The first non-UK office is established in Madrid, Spain.
- 1994 - Vanco opens an office up in Amsterdam, Netherlands.
- 1995 - Vanco opens an office up in Germany. Vanco adopts Cisco as the network industry equipment standard.
- 1996 - Vanco reports profits in excess of £1 million for the first time in the history of the company, on turnover of over £8 million. Company headquarters are relocated to new offices in Isleworth, Middlesex, England.
- 1997 - Vanco establishes an e-Business division, as well as an office in New York in the United States. Vanco is voted Wide Area Network Outsourcer of the Year by the National Outsourcing Association ([1]).
- 1998/1999 - Vanco is recognized as one of the fastest growing companies in the UK, and is included in the Deloitte & Touche "Hot 100" ([2]). Vanco also establishes its e-Security division and moves its operations outside the continental Europe into North Africa and Asia Pacific, and introduces zero-downtime Cascade technology into its network backbone. Vanco is once again voted Wide Area Network Outsourcer of the Year by the NOA ([3]).
- 2000 - Vanco sees record profits of £2.9 million and earns a place amongst the Hot 500 Global growth IT companies ([4]). Vanco is also voted as Network Outsourcer of the Year at the Network Industry Awards ([5]).
- 2001 - Vanco is successfully listed on the main market of the London Stock Exchange. Significant client listings contribute to another year of financial growth, with revenue up 43.6% and profits up to £3.1 million. Vanco is recognized by the Sunday Times as one of the top 100 fastest growing profitable companies in the UK ([6]). Vanco is also voted as European Communications Service Provider of the Year at the ISP Awards ([7]).

- 2002 - Vanco confirms a 15-year record of uninterrupted revenue growth. Turnover is up 43% while contracted revenue was up 93.3% to £132 million. Vanco sees significant (30% increase) investment in staff recruitment and development, as well as the launch of v:choice, the world's first global flexible benefits scheme ([8], [9]). Global service availability is extended to 230 countries and territories, and new customer service initiatives include O-zone, which Vanco claimed to be the industry's most advanced online network services portal ([10], [11]).
- 2003 - Vanco increases the number of countries with managed solutions to 83. Vanco is recognized as "Outsourcer of the Year" by Computing ([12], [13], [14]) and "Service Provider of the Year" by the Networking Industry Awards ([15], [16]). The World Communication Awards highly commends Vanco's customer service. Profit is reported up 490% to £5.5 million, with turnover up 45.5% to £76.8 million. Vanco also releases its MPLS Matrix solution ([17]), enabling multi-carrier networks based on MPLS to be managed as a single entity.
- 2004 - Financial results represent the 17th consecutive year of strong profitable growth, with turnover up 35.4% to £104 million, and operating profit up by 99.8% to £11.1 million. Vanco now has customers in 142 countries globally. Vanco is placed on the Leader's Quadrant of the Gartner Magic Quadrant for Network Service Providers in Europe ([18],[19]) - the only VNO amongst four asset-based carriers. Vanco is again voted "Best Service Provider of the Year" at the 2004 Networking Industry Awards ([20], [21]), and is listed in the "100 Best Under a Billion" with Forbes magazine ([22], [23]). For the 2nd year in succession, Vanco is listed in the Deloitte Technology EMEA Fast 500 ([24], [25]), and in Australia and Asia, Vanco is listed as the year's "MIS Rising Stars 25" ([26], [27]).
- 2005 - Vanco purchases a telecommunications company named Universal Access that is situated in downtown Chicago, Illinois in the United States ([28]). Universal Access had undergone a bankruptcy in early 2005 and had started to liquidate its assets and was unable to continue because of its debt load. With the purchase of Universal Access, Vanco gains the opportunity of working with layer 1 and layer 3 access within the United States, as well as further expanding its presence in the United States.

Source: http://en.wikipedia.org/wiki/Vanco#History_of_Vanco; July 24, 2007

**Internet and FCC Research on Key Officers, Directors
and Affiliates noted in Vanco Direct's application:**

John Bush House, Officer/Director/Owner of VNO Direct Limited

1. Numerous Internet hits; all of general nature
2. Nothing found in complaints.com.
3. No evidence of any formal or informal complaint proceedings pending before any state or federal regulatory commission, administrative agency, or law enforcement agency.
4. No evidence of any civil or criminal investigation, or had judgments entered in any civil matter, judgments levied by any administrative or regulatory agency, or been convicted of any criminal acts within the last ten (10) years.
5. Nothing found in search of FCC Quarterly Reports On Informal Consumer Inquiries And Complaints for 2004, 2005 and 2006

Edward Allen Timpany, Officer/Director

1. Several Google hits; all of general nature
2. Nothing found in complaints.com.
3. No evidence of any formal or informal complaint proceedings pending before any state or federal regulatory commission, administrative agency, or law enforcement agency.
4. No evidence of any civil or criminal investigation, or had judgments entered in any civil matter, judgments levied by any administrative or regulatory agency, or been convicted of any criminal acts within the last ten (10) years.
5. Nothing found in search of FCC Quarterly Reports On Informal Consumer Inquiries And Complaints for 2004, 2005 and 2006

Simon John Hargreaves, Officer/Director

1. Several Google hits; all of general nature
2. Nothing found in complaints.com
3. No evidence of any formal or informal complaint proceedings pending before any state or federal regulatory commission, administrative agency, or law enforcement agency.
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Ted Raffetto, Officer/Director

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Vanco Direct Limited

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5. Nothing found in search of FCC Quarterly Reports On Informal Consumer Inquiries And Complaints for 2004, 2005 and 2006

Vanco UK Limited

1. Several Google hits; all of general nature
2. Nothing found in complaints.com
3. See Attachment B for information related to complaint filed by Vanco UK Limited version British Telecom on December 11, 2002
4. No evidence of any formal or informal complaint proceedings pending before any state or federal regulatory commission, administrative agency, or law enforcement agency.
5. No evidence of any civil or criminal investigation, or had judgments entered in any civil matter, judgments levied by any administrative or regulatory agency, or been convicted of any criminal acts within the last ten (10) years.
6. Nothing found in search of FCC Quarterly Reports On Informal Consumer Inquiries And Complaints for 2004, 2005 and 2006
7. See Attachment C for information on FCC site.
8. See Attachment D for information regarding Application of Universal Access, Inc., Debtor-In-Possession And Vanco Direct USA, LLC To Transfer Control Of Universal Access, Inc., Debtor-In-Possession To Vanco Direct USA, LLC, WC Docket No. 05-187, June 6, 2005

VNO Direct Limited

1. Several Google hits; all of general nature
2. Nothing found in complaints.com
3. No evidence of any formal or informal complaint proceedings pending before any state or federal regulatory commission, administrative agency, or law enforcement agency.
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5. Nothing found in search of FCC Quarterly Reports On Informal Consumer Inquiries And Complaints for 2004, 2005 and 2006

http://www.ofcom.org.uk/static/archive/oftel/publications/comp_bull/archive/bull27.htm

Information Located October 4, 2007 by Commission Staff

Complaint against BT offering unpublished/non-transparent discounts

Complainant: Vanco UK Limited

Complaint against: BT

Case opened: 11 December 2002

Issue: BT's use of a 3rd party agent (indirect sales channel) to offer an unpublished and non-transparent discount to an existing customer

Relevant instrument: Condition 54.9 of BT's licence

Vanco, a global virtual network operator claims that BT has introduced a third party sales agent as a device for the purpose of making available an individual discount package to one of BT's existing customers in respect of certain access products. Vanco states that BT has made available a discount specifically designed to counter a proposal by Vanco to provide the same products to the customer for a lower price.

Vanco claims that BT is in breach of its licence, in so much that it has offered a price for standard regulated products below the published price, which amounts to a non-transparent and unpublished discount. Vanco also claims that by offering this discount BT is unduly preferring one retail customer to the detriment of other retail customers who may not have access to a similar discount arrangement. Vanco has therefore asked Oftel to take immediate enforcement action against BT to remedy the licence breach.

Update note

It appears to Oftel that BT has effectively offered a discount scheme to a customer which is not transparent and has not been published, contrary to the conditions of its licence. Therefore, on 10 February 2003 Oftel issued a provisional order against BT compelling BT to abide by condition 54.9 in relation to this complaint. BT has subsequently withdrawn the offer to the customer and in this respect, BT is in compliance with its licence condition to make transparent and publish information about discounts offered to customers.

BT acted within the three days set in the provisional order. As BT is now in compliance with its licence, Oftel will not confirm the Provisional Order.

Case leader: Kalpesh Brahmhatt (extn 8826)

Case reference: CW/00576/12/02



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FCC Search

[FCC > FCC Search](#)

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[Start new search](#) [Search these results](#)

Search:

"vanco direct"

[Help](#) [Advanced](#)

Tip: You can type in your query using plain language or just use keywords.

Example: who makes the best wine?

Results for: "vanco direct"

6 results found, sorted by relevance

[hide summaries](#)

1-6

DAILY DIGEST

Report No: SES-00729 Released: 07/06/2005. SATELLITE COMMUNICATIONS SERVICES INFORMATION Re: Actions Taken. IB. Contact: (202) 418-0719, TTY: (202) 418-2555 DOC-259839A1.pdf DOC- ...
http://www.fcc.gov/Daily_Releases/Daily_Digest/2005/dd050706.html - 14.8KB

54%
20 Sep 07
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DA 05-1961
July 6, 2005

DOMESTIC AUTHORIZATION GRANTED

APPLICATION OF UNIVERSAL ACCESS, INC., DEBTOR-IN-POSSESSION AND VANCO DIRECT USA, LLC TO TRANSFER CONTROL OF UNIVERSAL ACCESS, INC., DEBTOR-IN-POSSESSION TO VANCO DIRECT USA, LLC

WC Docket No. 05-187

By the Chief, Wireline Competition Bureau:

On April 25, 2005, Universal Access, Inc., Debtor-in-Possession ("UAI"), and Vanco Direct USA, LLC ("Vanco") (collectively, "Applicants") filed an application pursuant to sections 63.03 and 63.04 of the Commission's rules¹ requesting approval to transfer the control of UAI's domestic authorization to Vanco.² Vanco, a Delaware limited liability company, is a non-dominant carrier that provides interstate private line service throughout the United States. Vanco is 100% owned by VNO Direct Limited, a United Kingdom corporation. VNO Direct Limited is 100% owned by Vanco Group Limited, a United Kingdom corporation. Vanco Group Limited is 100% owned by Vanco PLC, a United Kingdom corporation, with a majority ownership interest currently held by Edward Allen Timpany, a United Kingdom citizen. No other individual or entity owns 10% or more of the voting shares in Vanco PLC.

Applicants request approval of the transfer of control pursuant to an asset purchase agreement (the "Agreement"). Under the Agreement, Vanco will acquire substantially all of the assets of UAI, including but not limited to UAI's customer accounts, subject to the approval of the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division (the "Bankruptcy Court") in the matter entitled In Re: Universal Access Global Holdings, Inc., et al., Case No. 04 B 28747 (Jointly Administered). A copy of the order of the Bankruptcy Court authorizing the sale will be filed with the Commission upon issuance. UAI is a wholly owned subsidiary of Universal Access Global Holdings, Inc. ("UAXS"). Since August of 2004, UAXS, UAI, and each of UAI's wholly owned domestic subsidiaries, have been operating under the protection of the Bankruptcy Court. The Agreement is still pending approval of the Bankruptcy Court.

¹ 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

² Applicants have also filed an application to transfer control of their International Section 214 authority. Any action on this domestic section 214 application is without prejudice to Commission action on other related applications.

The Commission released a public notice accepting this application for streamlined processing on May 18, 2005.³ Subsequently, on June 1, 2005, the United States Department of Justice, including the Federal Bureau of Investigation, with the concurrence of the United States Department of Homeland Security (collectively, the "Agencies"), filed with the Commission a request to defer action on this application until such time as the Agencies (i) notify the Commission that the potential national security, law enforcement, and public safety issues raised by the application have or have not been resolved, and (ii) on that basis, request appropriate action by the Commission.⁴ On June 29, 2005, the Agencies filed a letter asking the Commission to withdraw the Agencies' request to defer the application. The Agencies advised the Commission that they no longer object to the grant of the instant application based on the information provided to the Agencies by Vanco and analysis by the Agencies of potential national security, law enforcement and public safety issues.⁵

Consistent with Commission precedent, the Bureau accords the appropriate level of deference to the Executive Branch Agencies' expertise on national security and law enforcement issues.⁶ The Agencies have notified the Commission that they have no objection to the application.

The Wireline Competition Bureau finds, upon consideration of the record, that grant of the application will serve the public interest, convenience, and necessity.⁷ Specifically, in accordance with the request of the Executive Branch Agencies, in the absence of any objection from the Applicants, pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 0.291 of the Commission's rules,⁸ the Wireline Competition Bureau hereby grants this application.

³ *Domestic Section 214 Application Filed for Acquisition of Assets and Transfer of Control of Universal Access, Inc., Debtor-in-Possession, to Vanco Direct USA, LLC*, WC 05-187, Public Notice, DA 05-1372 (rel. May 18, 2005).

⁴ *See Domestic Section 214 Application Filed for Acquisition of Assets and Transfer of Control of Universal Access, Inc., Debtor-in-Possession, to Vanco Direct, USA, LLC*, WC Docket No. 05-187, Request to Defer (filed Jun. 1, 2005).

⁵ *See Request to Withdraw Request to Defer Domestic 214 Application Filed for Acquisition of Assets and Transfer of Control of Universal Access Inc., Debtor-in-Possession, to Vanco Direct USA, LLC*, WC Docket No. 05-187, DA 05-1372, Request to Withdraw (filed Jun. 29, 2005).

⁶ The Commission considers national security, law enforcement, foreign policy, and trade policy concerns when analyzing a transfer of control or assignment application in which foreign ownership is an issue. *See Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States*, Report and Order, 12 FCC Rcd 24094, 24170-72, ¶¶ 178-182 (1997) ("DISCO II Order"); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23919-921, ¶¶ 61-66 (1997), Order on Reconsideration, 15 FCC Rcd 18158 (2000) ("Foreign Participation Order"). In assessing the public interest, the Commission considers the record and accords the appropriate level of deference to Executive Branch expertise on national security and law enforcement issues. *See Foreign Participation Order*, 12 FCC Rcd at 23919-921, ¶¶ 61-66; *see also Applications of XO Communications, Inc. for Consent to Transfer Control of Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act, and Petition for Declaratory Ruling Pursuant to Section 310(b)(4) of the Communications Act*, IB Docket No. 02-50, Memorandum Opinion & Order, 17 FCC Rcd 19212, 19228-29, ¶¶ 36-40.

⁷ *See* 47 C.F.R. § 63.03(c)(v). Upon consummation of the transaction, Vanco will have a market share in the U.S. interstate interexchange market of less than 10 percent, and will provide competitive telephone exchange services or exchange access services exclusively in geographic areas served by a dominant local exchange carrier in the U.S. that is not a party to the transaction. In addition, no party to this transaction is dominant with respect to any domestic service.

⁸ 47 C.F.R. § 0.291.

Pursuant to section 1.103 of the Commission's rules, the grant is effective upon release of this Public Notice.⁹ Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules may be filed within 30 days of the date of this Public Notice.¹⁰

For further information, please contact Erin Boone at (202) 418-0064, or Renee Crittendon at (202) 418-2352, Competition Policy Division, Wireline Competition Bureau.

– FCC –

⁹ See 47 C.F.R. § 1.103.

¹⁰ See 47 C.F.R. §§ 1.106, 1.115.